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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/649,399	08/28/2000	John F. Travers	29939/30002	7200

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EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 06/16/2003

25

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/649,399

Applicant(s)

TRAVERS ET AL.

Examiner

Jennifer E. Novosad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) 5-8 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,9-15 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 31 December 2001 is: a) ☒ approved b) ☐ disapproved by the Examiner
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Request for Continued Examination

The request filed on May 19, 2003 (Paper No. 23) for a Continued Examination (RCE) under 37 CFR 1.53(d) based on parent Application No. 09/649,399 is acceptable and an RCE has been established. An action on the RCE follows. *Accordingly*, claim 18 has been canceled.

Election/Restriction

Claims 5-8 and 16 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-15, 19, 20, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The language of the limitation "the package is adapted to contain the water collecting tray only when in the storage configuration" renders the claim indefinite since it is unclear whether the package what is contained in the package, i.e., the claim recites in line 15 that the package

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contains the drainer, yet in line 16 the claim recites that the package contains the tray in "only" the storage configuration.

Claim 19 is rendered indefinite since the claim depends from a canceled claim, i.e., 18. It appears that the dependency of claim 19 should be changed to --13--. *Further*, the limitation "the packaging" in line 1 of claim 19 lacks proper antecedent basis in the claim. It is noted that claim 13 sets forth a "package".

The language of the limitation "an inclined surface for collecting and redirecting water" in (lines 9-10 of) claim 20 and claim 21 renders the claim indefinite since it is unclear how the "inclined surface" collects the water. It appears that the tray collects the water and the inclined surface is adapted to re-direct the water from within the tray and into a sink.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 21, 13-15, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Craft *et al.* '184.

Craft *et al.* '184 disclose an assembly made from a synthetic resin (see column 3, lines 15-16) comprising a dish drainer (4) and a discrete and separate tray (14), i.e., the tray is considered to be only the portion extending between and including elements 12 and 18 in Figure 1 and not the rim (at 8); the dish drainer (4) having a perforate base (at 32 in Figure 2) and a perimeter wall

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(see red-marked photocopy of Figure 2) extending upward therefrom and thereby defining an interior; the assembly further comprising a first and a second compartment (at 26) which are contiguous with the perimeter wall and extending within the interior; the tray (14) being positionable in a first deployed position (see Figure 2) whereby the tray is disposed beneath the drainer and the tray having a footprint larger than the base of the drainer and in a second storage position (see Figures 1 and 3) whereby the tray fits entirely within the interior of the drainer, i.e., see Figure 3 which shows that the tray (as defined between and including elements 12) is *entirely* within the interior of the drainer even though a portion thereof extends above the topmost point of the perimeter wall of the drainer.

With respect to claims 1, 13, and 20, it is noted that the perimeter wall has not defined as being connected to the base wall nor has the shape of the perimeter wall been defined, i.e., contiguous and with planar walls nor has the tray been set forth as being entirely received within the interior beneath the uppermost point of the perimeter wall.

With respect to claim 13, Craft *et al.* '184 further teaches that it is old in the art to package the set whereby the package includes a plastic wrap (see column 1, lines 32-41).

With respect to claims 15, 20 and 21, inasmuch as the claims are best understood in view of the section 112 rejections (as advanced above), Craft *et al.* '184 are considered to show the tray including an inclined surface (at 12 and 18 in Figure 3) whereby the tray is adapted to collect water and when the water is desired to be discarded the tray can be lifted and tilted over a sink whereby the inclined surfaces would re-direct water from out the tray and into the sink.

Allowable Subject Matter

Claims 3 (and hence 4) are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:
The prior art of record fails to show or suggest a drainer and tray set, as in claim 1, whereby the tray includes a hinge about which the tray is folded so that the tray is converted from the deployed to the storage configuration, as specifically called for in the claimed combination of claim 3.

With respect to Halvorsen, although Halvorsen shows a drainer and tray set having a compartment (C) and the tray (A) having a hinge (between A and D) about which the tray can be folded, the compartment is not contiguous with the perimeter wall of the drainer. It would not have been obvious to have contiguously formed the compartment with the wall because then the tray would not be able to fit within the drainer.

With respect to Maydwell et al., while Maydwell *et al.* show a drainer (150) and tray (174) set whereby the drainer has a compartment (192) contiguously formed therewith and the tray (174) having a hinge about which the tray can be folded so as to be able to fit entirely within the drainer, the drainer (150) does not contain a perforated base. It would not have been obvious to have made the base as a perforated base since items placed in the set would not be kept dry.

Claims 9 (and hence 10-12) would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to show or suggest a drainer and tray set, as called for in claim 1, whereby the set further comprises a compartment detachable from and attachable to the "tray", as specifically called for in the claimed combination of claim 9. It is noted that while the prior art of record shows various drainer and tray sets having a detachable compartment, there is no motivation or teaching to have the detachable compartment attachable to the tray, i.e., not the drainer.

Response to Arguments

Applicant's arguments, regarding the Halvorsen '366 reference, and with respect to claims 1-4, 9-12, 13-15, and 17-19 have been considered but are moot in view of the new ground(s) of rejection.

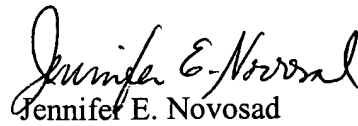
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-305-3597 for regular communications and (703)-305-3597 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1113.



Jennifer E. Novosad

Examiner

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Jennifer E. Novosad/jen

June 12, 2003